

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

**VISIBLE SYSTEMS CORPORATION,
a Massachusetts Corporation,**

Plaintiff,

v.

C.A. No. 04-CV-11610-RGS

**UNISYS CORPORATION,
a Delaware Corporation,**

Defendant.

**EXPERT WITNESS REPORT OF MALCOLM LANE
PURSUANT TO FED.R.CIV.P., RULE 26(A)(2)(B)**

MALCOLM LANE states as follows:

I. Complete Statement of All Opinions to be Expressed and the Basis and Reasons Therefor

Opinion No. 1: Unisys' "3D Visible Enterprise" offering is in the market space of Computer-Aided Software/Systems Engineering (CASE) and Enterprise Architecture information engineering for the modeling of the software and systems used by enterprises (government agencies and business corporations).

Basis for this opinion:

My review of what Unisys states to be the nature of and components of Unisys' 3D Visible Enterprise.

My review of the nature and characteristics of the components of Unisys' 3D Visible Enterprise offering.

My review of the nature and characteristics of the products and services of Visible Systems Corporation.

My review of market description and competitor identification in said market by independent third parties including Gartner Group, Institute for Enterprise Architecture Developments, and Meta Integration.

My familiarity with IBM Rational tools and services and Visible Systems' tools and services.

My familiarity with other companies and their products and services operating in the relevant market during the past two decades.

My review of publicly available information about Unisys and Visible Systems and materials pertinent to the relevant market.

My experience in teaching at the university level in subject matter related to the relevant market.

My use of Visible Analyst and knowledge of uses of Visible Analyst in projects for enterprises including government entities and businesses.

My experience in the commercial marketplace pertinent to the relevant market, including my work at IBM and KPMG (now Bearing Point).

Opinion No. 2. Visible Systems' products and services are in the market space of CASE and Enterprise Architecture information engineering for the modeling of the software and systems used by enterprises. Visible Systems' competitors in this market during include companies such as IBM Rational, Popkin (now acquired by Telelogic), Embarcadero, and Allfusion (Computer Associates).

Basis for this opinion: Same as for Opinion No. 1.

Opinion No. 3. Unisys' "3D Visible Enterprise" offering is similar to the products and services of Visible Systems in terms of functionality and terminology, including among other matters, typical CASE modeling capabilities, strategic business planning, process modeling, use case modeling, data flow diagramming, structured methodology, object oriented modeling, and data modeling, and enterprise architecture modeling.

Basis for this opinion: Same as for Opinion No. 1.

Opinion No. 4. The similarity between Unisys' "3D Visible Enterprise" offering and the products and services of Visible Systems is further validated by Unisys' use of a repository, which was an early and important feature of Visible Systems' products.

Basis for this opinion: Same as for Opinion No. 1.

Opinion No. 5. Unisys' "3D Visible Enterprise" offering is built with pre-existing products and methodologies from the market space of CASE and Enterprise Architecture information engineering for the modeling of the software and systems used by enterprises.

Basis for this opinion: Same as for Opinion No. 1.

Opinion No. 6. Unisys' "3D Visible Enterprise" offering directly competes with Visible's products and services in the market space of CASE and Enterprise Architecture information engineering for the modeling of the software and systems used by enterprises.

Opinion No. 7. When a person familiar with Visible Systems' products and services encounters the phrase "3D Visible Enterprise" in association with Unisys, this association

is likely to give the impression that Unisys has acquired Visible Systems or has a licensing type of business relationship with Visible Systems.

Basis for this opinion:

My familiarity with trends and developments in the relevant market over time, and the basis factors stated for Opinion No. 1.

Opinion No. 8. The term “Visible” in the CASE-Enterprise Architecture modeling market space has the primary meaning of a company and its products, namely Visible Systems Corporation and its products, including Visible Analyst, associated with data modeling, process modeling, use case modeling, and the development over time from early structured software engineering methodologies to enterprise architecture modeling.

Basis for this opinion: My experience in the relevant market in my commercial employment and engagements as well as teaching in fields related to the relevant market.

Opinion No. 9. Visible is a prominent name in universities, among persons teaching and being educated in the areas of systems analysis and design, information systems, and software engineering, through exposure of a large number of students and professors nationwide to the Visible name through textbooks that refer to Visible or are bundled with or otherwise used with Visible Analyst in courses and projects in universities.

Basis for this opinion: My experience in teaching at the university level; my familiarity with textbooks in the areas of system analysis and design, information systems, and software engineering; and my familiarity with programs at universities, including review of information publicly available over the Internet.

Opinion No. 10. University students educated in systems analysis and design and information systems courses that use or refer to Visible Analyst are likely to go into

positions in the information technology (IT) or information systems (IS) departments of business corporations and government agencies.

Basis for this opinion: My experience in teaching university students and knowing of their work experience and career path post-graduation; as well as my experience in the commercial world related to the relevant market.

Opinion No. 11. The persons likely to purchase products and services for modeling of the software and systems of enterprises are persons in the IT/IS departments of corporations and agencies.

Basis for this opinion: My commercial experience in the relevant market. See additional elements of basis from Opinion No. 1.

Opinion No. 12. I reserve the right to supplement these opinions in light of materials that subsequently become available to me.

II. The Data or Other Information Considered by the Witness in Forming the Opinions

The data or other information I considered in forming my opinions is described above in the basis for my opinions above.

III. Any Exhibits to be Used as a Summary of or Support for the Opinions

No exhibits have been identified or selected as yet; this answer will be supplemented as such are identified and selected.

IV. The Qualifications of the Witness, Including a List of All Publications Authored by the Witness Within the Preceding Ten Years

See attached C.V.

V. The Compensation to be Paid for the Study and Testimony

For study and testimony at deposition and trial: \$125/hour.

VI. List of Any Other Cases in Which the Witness Has Testified as an Expert at Trial or by Deposition Within the Preceding Four Years

None.

SIGNED UNDER THE PAINS AND PENALTIES
OF PERJURY:

/s/ Malcolm Lane

Malcolm Lane

Date: May 5, 2006

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